IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

WRIT PETITION NO.2822 OF 2001

Shri S.Ramnath Rao. ...Petitioner.

Vs.

Foreign Exchange Dealers Asso.
of India. ...Respondent.

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Mr.N.M.Ganguli for the Petitioner.

None for the Respondent.

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CORAM : DR.D.Y.CHANDRACHUD, J.

February 7, 2005.

P.C. :

The contention of the Petitioner in the proceedings before the Labour Court was that he was a member of the clerical staff in the Foreign Exchange Dealers' Association of India and was, therefore, a workman under Section 2(s) of the Industrial Disputes Act, 1947. The Labour Court came to the conclusion that the management has discharged the burden of establishing that the

nature of duties of the Petitioner was not such as would bring him within the definition of "workman" under Section 2(s) and that the duties that have been performed by the Petitioner were clearly not of a clerical nature as contended by him.

The evidence on the record has been appreciated by the Labour Court. Some part of that evidence can be fruitfully adverted to for the purposes of present proceedings. The evidence included the bio-data of the Petitioner himself. From that bio-data, it has emerged that the Petitioner had initially worked from 1978 to 1981 as Chief Manager with an employer in Mangalore, where he was in over all control of the establishment. Prior thereto, the Petitioner had worked for 20 years from 1957 to 1977 with the Syndicate Bank where he had been Assistant Senior Officer in the rank of Assistant Manager. He had also worked as a Manager in the Branches of Syndicate Bank for a short period. Thereafter, when he joined the Respondent-employer, his job description, according to the Petitioner himself, involved supervision over the staff in the Foreign Exchange Department. The documentary material which was produced on the record included a letter dated 20th July 1986 in which he had called upon

the addressee to fulfil certain requisitions, failing which it will be deemed that the employee has left the services of the First Respondent. The letter was signed by the Petitioner as Secretary. Then there was other documentary material consisting of leave applications which had been sanctioned by the Petitioner as sanctioning officer or Administrative Officer. In the course of his evidence, the Petitioner admitted that he had issued disciplinary memos to members of the staff of the First Respondent. The Petitioner was an authorised signatory for the operation of the Bank Account. The Petitioner made recommendations in respect of certain employees in regard to their performance. He had signed on the balance sheet and income and expenditure statements. Now, it is a settled principle of law that unless an employee comes within the definition of "workman" within the meaning of substantive part of Section 2(s), he would not be entitled to be classified as aworkman for the purposes of proceedings under the Industrial Disputes Act, 1947. The assessment of the documentary evidence by the Labour Court cannot be regarded as being perverse or as suffering from any error apparent in the exercise of the jurisdiction. The Petition is accordingly rejected.

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